

Federal Housing Enterprise Oversight

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structure. Placed between the base and the top are the letters "OFHEO." These letters spell out the acronym of the Office of Federal Housing Enterprise Oversight and act as a visual link between the top and bottom of the structure.

(b) *Display*. The Office of Federal Housing Enterprise Oversight's official logo and seal appears below:



[68 FR 32629, June 2, 2003]

PART 1701—ASSESSMENTS

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AUTHORITY: 12 U.S.C. 4513(b)(1) and 12 U.S.C. 4516.

SOURCE: 66 FR 18039, Apr. 5, 2001, unless otherwise noted.

§ 1701.1 Purpose.

This part sets forth the policy and procedures of OFHEO with respect to the establishment and collection of the annual assessments of the Enterprises under section 1316 of the Act (12 U.S.C. 4516).

§ 1701.2 Definitions.

For purposes of this part, the term—

(a) *Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102-550, section

1301, Oct. 28, 1992, 106 Stat. 3672, 3941-4012 (1993) (12 U.S.C. 4501 *et seq.*).

(b) *Adequately capitalized* means the adequately capitalized capital classification under section 1364 of the Act (12 U.S.C. 4614).

(c) *Director* means the Director of the Office of Federal Housing Enterprise Oversight or his or her designee.

(d) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term "Enterprises" means, collectively, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(e) *Surplus funds* means funds that are not obligated as of September 30 of each fiscal year that were collected from any Enterprise pursuant to § 1701.3 or § 1701.4.

(f) *Total assets* means the sum, as of the most recent June quarterly minimum capital report of the Enterprise, of the amounts of the following assets that are used to calculate the quarterly minimum capital requirement of the Enterprise under 12 CFR part 1750:

- (1) On-balance sheet assets;
- (2) Off-balance sheet mortgage-backed securities; and
- (3) Other off-balance sheet obligations.

(g) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

§ 1701.3 Annual assessment.

(a) *Establishment of assessment*. The Director may, to the extent provided in appropriation acts, establish and collect from the Enterprises an annual assessment for each fiscal year, as allocated under paragraph (b) of this section. The amount of the annual assessment shall not exceed the estimated amount to be sufficient to provide for the necessary administrative and non-administrative expenses to carry out the responsibilities of the Director relating to the Enterprises and to carry out the purposes of the Act.

(b) *Allocation and proportional share*. The annual assessment established under paragraph (a) of this section shall be allocated between the Enterprises. Each Enterprise shall pay a proportional share of the annual assessment that bears the same ratio to the

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total annual assessment as the total assets of each Enterprise bears to the total assets of both Enterprises.

(c) *Timing and amount of semiannual payment.* (1) Each Enterprise shall pay on or before October 1 and April 1 of each fiscal year an amount of one-half of its proportional share of the annual assessment, except:

(i) As provided in paragraph (c)(2) of this section;

(ii) To the extent surplus funds are credited under paragraph (d) of this section; and

(iii) To the extent a semiannual payment is increased under § 1701.4.

(2) If OFHEO is operating under a continuing appropriation as of October 1 of any year, each Enterprise shall pay, on such date as determined by the Director, an amount calculated by applying the annual assessment proportion calculated under paragraph (b) of this section to the amount authorized for expenditure. When OFHEO receives a regular appropriation, the amount of the allocation share of the annual assessment collected from each Enterprise shall be reduced by any partial payments made by each Enterprise in connection with any continuing appropriations.

(d) *Surplus funds.* Surplus funds shall be credited to the annual assessment by reducing the amount collected by the amount of the surplus funds. Surplus funds shall be allocated in the same proportion in which they were collected, except as determined by the Director.

§ 1701.4 Increase in semiannual payment.

The Director, in his or her discretion, may increase any semiannual payment to be collected under § 1701.3 from an Enterprise that is not classified as adequately capitalized as necessary to pay additional estimated costs of regulation of the Enterprise.

§ 1701.5 Notice and review.

(a) *Written notice.* The Director shall provide each Enterprise with written notice of the annual assessment, the semiannual payments and any partial payments to be collected under this part. In addition, the Director shall provide each Enterprise with written

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notice of any changes in the assessment procedures that the Director, in his or her sole discretion, deems necessary under the circumstances.

(b) *Request for review.* At the written request of an Enterprise, the Director, in his or her discretion, may review the calculation of the proportional share of the annual assessment, the semiannual payments, and any partial payments to be collected under this part. The determination of the Director is final. Except as provided by the Director, review by the Director does not suspend the requirement that the Enterprise make the semiannual payment or partial payment on or before the date it is due.

§ 1701.6 Delinquent payment.

(a) *Interest and penalties.* The Director may assess interest and penalties on any delinquent semiannual payment or partial payment collected under this part in accordance with 31 U.S.C. 3717 (interest and penalty on claims) and 12 CFR part 1704 (debt collection). The Director may waive interest and penalties in his or her discretion.

(b) *Transfer to general fund.* Any interest and penalties collected under this section shall be transferred to the general fund of the Treasury of the United States.

§ 1701.7 Enforcement of payment.

Notwithstanding § 1701.6, the Director may enforce the payment of any assessment under this part pursuant to the authorities of sections 1371 (12 U.S.C. 4631) (cease-and-desist proceedings), 1372 (12 U.S.C. 4632) (temporary cease-and-desist orders), and 1376 (12 U.S.C. 4636) (civil money penalties) of the Act.

§ 1701.8 Deposit in fund.

OFHEO shall deposit any annual assessment collected under this part in the Federal Housing Enterprise Oversight Fund established in the Treasury of the United States.

PART 1702—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

1702.1 Scope.

1702.2 Definitions.